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In re Application of
Call et al.
Application No.: 10/585,216
PCT No.: PCT/US2004/043950
Int. Filing Date: 29 December 2004
Priority Date: 30 December 2003
Attorney Docket No.: D0504.7009US00
(L0619.70003US01)
For: Thiophene Derivatives For Up-
Regulating HLA-DM Activity

DECISION

This is in response to the correspondence filed on 11 June 2008.

DISCUSSION

In a Decision mailed on 12 May 2008, the petition under 37 CFR 1.182 filed on 13 March 2008 was granted, but the declaration filed on 01 November 2007 was not accepted, without prejudice, because

Further inspection of the declaration filed on 01 November 2007 reveals that the copy signed by Mr. Cuny includes an un-initialed alteration to his mailing address, and that the copy signed by inventor Wucherpfennig does not nominate the complete inventive entity (since it does not name Melissa Nicholson/Call). As such, it would not be appropriate to accept the declaration at this time.

In response, counsel has filed two declaration documents, signed respectively by inventors Cuny and Wucherpfennig. The document signed by Cuny cures the un-initialed alteration noted in the previous decision. However, inspection of the document signed by Wucherpfennig reveals that it appears to have been compiled by attaching a signed and faxed signature page to the remaining pages. Reference is made to MPEP 201.03, which explains in part that

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

Since applicants have not filed a copy of a complete declaration document as signed by inventor Wucherpennig, it would not be appropriate to accept the declaration at this time.

The Decision mailed on 12 May 2008 set a period for response as follows:

Applicants have **ONE (1) MONTH** from the mail date of this decision to file an oath or declaration of the inventors compliant with 37 CFR 1.497(a) and (b).. Extensions of time are **NOT** available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application with respect to the national stage in the United States.

Since the declaration filed on 11 June 2008 was defective as described above, applicants did not timely file the required reply. As such, this international application stands **ABANDONED** with respect to the national stage in the United States. It is noted that this is analogous to the practice where a Notification of Defective Response (Form PCT/DO/EO/916) is mailed, but the defect is not timely cured. Applicants may wish to consider filing, if appropriate, a petition pursuant to 37 CFR 1.137(b).

DECISION

The application is **ABANDONED**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration

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